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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

CHASOM BROWN, *et al.*, individually and
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Case No. 4:20-cv-03664-YGR-SVK

**DECLARATION OF TEUTA FANI IN
SUPPORT OF PLAINTIFFS' MOTION
TO CONSIDER WHETHER PORTIONS
OF PLAINTIFFS' REPLY IN SUPPORT
OF MOTION TO EXCLUDE PORTIONS
OF THE REBUTTAL EXPERT REPORT
OF KONSTANTINOS PSOUNIS SHOULD
BE SEALED**

Judge: Hon. Yvonne Gonzalez Rogers

Case No. 4:20-cv-03664-YGR-SVK

1 I, Teuta Fani, declare as follows:

2 1. I am a member of the State Bar of Illinois, and an attorney at Quinn Emanuel
3 Urquhart & Sullivan, LLP, attorneys for Defendant Google LLC (“Google”) in this action. I have
4 been admitted pro hac vice in this matter. Dkt. 234. I make this declaration of my own personal,
5 firsthand knowledge, and if called and sworn as a witness, I could and would testify competently
6 thereto.

7 2. I am making this declaration pursuant to Civil Local Rule 79-5(e)-(f) as an attorney
8 for Google as the Designating Party, pursuant to Civil Local Rule 79-5(f)(3) in response to Dkt.
9 754.

10 3. On September 21, 2022, Plaintiffs filed their Administrative Motion to Consider
11 Whether Google’s Materials Should Be Sealed regarding Plaintiffs’ Reply In Support Of Motion to
12 Exclude Portions of the Rebuttal Expert Report of Konstantinos Psounis (Dkt. 703). On September
13 21, 2022, Plaintiffs’ provided an unredacted service copy of the documents sought to be sealed.

14 4. The common law right of public access to judicial proceedings is not a constitutional
15 right and it is “not absolute.” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978); *Crowe v.*
16 *Cty. of San Diego*, 210 F. Supp. 2d 1189, 1194 (S.D. Cal. 2002) (“[T]here is no right of access which
17 attaches to all judicial proceedings.” (internal citations omitted)). In the context of dispositive
18 motions, materials may be sealed in the Ninth Circuit upon a showing that there are “compelling
19 reasons” to seal the information. *See Kamakana v. City & Cty. Of Honolulu*, 447 F.3d 1172, 1179-
20 80 (9th Cir. 2006). However, a party seeking to seal information in a non-dispositive motion must
21 show only “good cause.” *Id.* at 1179-80. Courts in this District have held that motions to exclude
22 the testimony of experts are non-dispositive. *TVIIM, LLC v. McAfee, Inc.*, 2015 WL 3623656, at *4
23 (N.D. Cal. June 10, 2015) (“Because Plaintiff’s motion to exclude testimony is not a dispositive
24 motion, the Court applies the “good cause” standard.”). Such sealing is appropriate when the
25 information at issue constitutes “competitively sensitive information,” such as “confidential
26 research, development, or commercial information.” *France Telecom S.A. v. Marvell Semiconductor*
27 *Inc.*, 2014 WL 4965995, at *4 (N.D. Cal. Oct. 3, 2014); *see also Phillips v. Gen. Motors Corp.*, 307
28 F.3d 1206, 1211 (9th Cir. 2002) (acknowledging courts’ “broad latitude” to “prevent disclosure of

1 materials for many types of information, including, but not limited to, trade secrets or other
 2 confidential research, development, or commercial information”); *Standard & Poor’s Corp. Inc. v.*
 3 *Commodity Exch., Inc.*, 541 F. Supp. 1273, 1275 (S.D.N.Y. 1982) (“[T]he overriding interest to be
 4 found in business confidences . . . require[s] . . . temporary reasonably restricted access to the
 5 Courtroom of members of the public.”).

6 5. I have reviewed the documents that Plaintiffs seek to file under seal pursuant to Civil
 7 Local Rule 79-5(f). Based on my review, there is good cause to seal the following information:

Document(s) to be Sealed	Basis for Sealing
<p>9 Plaintiffs’ Reply in Support of 10 Plaintiffs’ Motion to Exclude 11 Portions of the Rebuttal Expert 12 Report of Konstantinos Psounis 13 Pages 1:4, 1:24-25, 3:14, 7:10-11, 14 7:13, 7:16, 7:20, 7:23 15 Google joins Plaintiffs’ motion to 16 seal in PART with respect to this 17 document. 18 19</p>	<p>The information requested to be sealed contains Google’s highly confidential and proprietary information regarding highly sensitive features of Google’s internal systems and operations, such as Google’s internal metrics and data system names, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google’s competitors. Such confidential and proprietary information reveals Google’s internal strategies, system designs, and business practices for operating and maintaining many of its important services, and falls within the protected scope of the Protective Order entered in this action. <i>See</i> Dkt. 81 at 2–3. Public disclosure of such confidential and proprietary information could affect Google’s competitive standing as competitors may alter their systems and practices relating to competing products. It may also place Google at an increased risk of cybersecurity threats, as third parties may seek to use the information to compromise Google’s internal practices relating to competing products.</p>

20 6. Google’s request is narrowly tailored in order to protect its confidential information.
 21 These redactions are limited in scope and volume. Because the proposed redactions are narrowly
 22 tailored and limited to portions containing Google’s highly-confidential or confidential information,
 23 Google requests that the portions of the aforementioned documents be redacted from any public
 24 version of those documents.
 25

26 7. Google does not seek to redact or file under seal any of the remaining portions of
 27 documents not indicated in the table above.
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1 I declare under penalty of perjury of the laws of the United States that the foregoing is true
2 and correct. Executed in Los Angeles, California on September 28, 2022.

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5 By /s/ Teuta Fani
Teuta Fani
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